

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

WILMA COLLINS

PLAINTIFF

v.

CASE NO. 3:20-CV-00022 BSM

ETHICON, INC., et al.

DEFENDANTS

ORDER

Defendants’ motion for partial summary judgment [Doc. No. 28] is granted. Wilma Collins filed a short form complaint [Doc. No. 1] in this multidistrict litigation case alleging multiple counts against the defendants. The defendants move for summary judgment on most of Collins’s claims. Doc. No. 28. Collins responds that she is only pursuing claims for (1) negligent design, (2) strict liability design defect, (3) punitive damages, and (4) “discovery rule and tolling.” Doc. No. 30. Defendants do not move for summary judgment on the first three of those claims, but they do move for dismissal of the claim for discovery rule and tolling. Discovery rule and tolling is not a standalone cause of action in Arkansas but is a doctrine that may be relevant in determining the period for which Collins is entitled to damages. *See State v. Diamond Lakes Oil Co.*, 66 S.W.3d 613 (Ark. 2002). Neither party mentions Collins’s unjust enrichment claim.

Defendants’ motion is granted, and all claims except (1) negligent design, (2) strict liability design defect, (3) punitive damages, and (4) unjust enrichment are dismissed, but Collins is not prohibited from presenting evidence that the statute of limitations was tolled pursuant to the discovery rule. An initial scheduling order shall issue.

IT IS SO ORDERED this 18th day of February 2020.


UNITED STATES DISTRICT JUDGE